

**BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO**

In the Matter of the Protest of	)	
	)	DOCKET NO. 18343
[REDACTED],	)	
	)	DECISION
Petitioner.	)	
_____	)	

This case arises from a timely protest of a State Tax Commission staff (staff) decision to deny the property tax reduction benefit for 2004. This matter was submitted for a decision based on the documents in the file. The State Tax Commission has reviewed the file and makes its decision.

[Redacted] (petitioner) filed a property tax reduction benefit application on or about April 1, 2004. During review of that application and the accompanying copy of the petitioner's 2003 federal income tax return, the staff identified non-taxable annuities that had not been included in the application.

The staff sent the petitioner a letter advising her that her income total for the purpose of the property tax reduction benefit was going to be increased to include the non-taxable portion of the annuities. The petitioner protested the intended action that would result in denial of her application.

All property within the jurisdiction of this state is subject to property tax. A property tax reduction benefit program is available to certain qualifying individuals throughout the state. The benefit is in the form of payment (either total or partial) of the applicant's property tax on the dwelling he/she owns and occupies. The payment is funded by state sales tax.

The amount of property tax reduction depends on income--the greater the income, the smaller the benefit. However, income is defined differently for the property tax reduction benefit program than it is described in the income tax code. Income for property tax reduction benefit purposes is

defined in Idaho Code § 63-701(5):

(5) **"Income" means the sum of federal adjusted gross income** as defined in the Internal Revenue Code, as defined in section 63-3004, Idaho Code, **and** to the extent not already included in federal adjusted gross income:

(a) Alimony;

(b) Support money;

(c) Nontaxable strike benefits;

(d) **The nontaxable amount of any individual retirement account, pension or annuity,** (including railroad retirement benefits, all payments received under the federal social security act except the social security death benefit as specified in this subsection, state unemployment insurance laws, and veterans disability pensions and compensation, **excluding rollovers as provided in section 402 or 403 of the Internal Revenue Code**);

(e) Nontaxable interest received from the federal government or any of its instrumentalities or a state government or any of its instrumentalities;

(f) Worker's compensation; and

(g) The gross amount of loss of earnings insurance.

It does not include capital gains, gifts from nongovernmental sources or inheritances. To the extent not reimbursed, the cost of medical care as defined in section 213(d) of the Internal Revenue Code, incurred or paid by the claimant and/or, if applicable, the claimant's spouse, may be deducted from income. To the extent not reimbursed, personal funeral expenses, including prepaid funeral expenses and premiums on funeral insurance, of the claimant and claimant's spouse only, may be deducted from income up to an annual maximum of five thousand dollars (\$5,000) per claim. (Emphasis added.)

The calculation of income starts with federal adjusted gross income and, thereafter, makes certain additions and deductions. The nontaxable portion of annuities is specifically required to be included in income to determine the benefit amount a qualified applicant is to receive. The only exception is if the annuities are qualified as “rollovers as provided in section 402 or 403 of the Internal Revenue Code.”

The petitioner's federal income tax return showed she received gross distribution of annuities in the amount of \$65,347. Of that amount, \$6,087 was taxable and was included in her federal adjusted gross income. The petitioner complained at the inclusion of the annuities in income stating the funds were "a roll over of an investment with [Redacted]."

On October 7, 2004, the petitioner and her daughter telephoned the Tax Commission to discuss the investment in question. Both the petitioner and her daughter argued that the funds were rolled into another account and the petitioner did not receive any money. That conversation was followed by a teleconference with the petitioner and her financial advisor. In response to a direct question asked of the advisor, the advisor said the funds were not rollovers as described in the Internal Revenue Code. That statement is supported by the 1099-Rs issued to the petitioner by [Redacted] and by the petitioner's 2003 federal tax return.

The property tax reduction benefit is not federal or state income tax – it is payment of property tax based on certain qualifying factors including income. Pursuant to the definition of income as stated in Idaho Code § 63-701(5), the nontaxable portion of annuities is required to be included in income to determine the benefit amount an applicant qualifies to receive.

With the nontaxable annuities added to the income shown in the petitioner's 2004 application, the petitioner's total net income exceeds the maximum allowed for a minimum benefit. The petitioner must be denied the 2004 property tax reduction benefit.

The State Tax Commission is aware there is some potential this decision could cause a hardship to the property tax reduction benefit applicant. The proper jurisdiction to handle such hardship situations falls with the Nez Perce County Commissioners pursuant to Idaho Code § 63-711.

WHEREFORE, the decision of the State Tax Commission staff to deny the property tax reduction benefit is APPROVED, AFFIRMED and MADE FINAL.

An explanation of the petitioner's right to appeal this decision is enclosed with this decision.

IDAHO STATE TAX COMMISSION

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COMMISSIONER

CERTIFICATE OF SERVICE BY MAIL

I hereby certify that I have on this \_\_\_\_\_ day of \_\_\_\_\_, 2004, served a copy of the within and foregoing DECISION by sending the same by United States mail, postage prepaid, in an envelope addressed to:

[REDACTED]

[Redacted]

[REDACTED]

Receipt No.